IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. REV. No.300 of 2008
SONU @ ARVIND KUMAR
Versus
STATE OF BIHAR
---

4 02/05/2008 This revision application has been filed against the order dated 10.12.2007 passed in Cr. Appeal No. 397 of 2007 by the Sessions Judge, Patna whereby the appeal filed against the order dated 12.9.2007 passed in J. J. B. Case No. 1209 of 2005 was affirmed.

The petitioner is an accused of a case registered as Khajekalan P.S. Case No. 72 of 2005 dated 1.5.2005 under sections 147, 148, 149, 302, 120 B of the Indian Penal Code and section 27 of the Arms Act. He took plea that he is a juvenile but after inquiry his plea was rejected. Being aggrieved against the finding of the Juvenile Justice Board, Patna the petitioner preferred a Cr. Appeal No. 397 of 2005. In that case as it appears from the order dated 26.9.2007 that the record of Khajekalan P.S. Case No. 72 of 2006 was called for and the appeal was dismissed after perusal of record of Khajekalan P.S. Case No. 72 of 2006 but the correct record was Khajekalan P.S. case No. 72 of 2005 which was neither called for nor perused. It further appears from page 13 of the record that when the order was transmitted to the court then the court has noted that it has been received in wrong case.

WEB COPY
NOT OFFICIAL

The grievance of the petitioner is limited to the extent that without perusal of lower court record of correct case his appeal was dismissed by the appellate court, so the order is erroneous.

Learned counsel for the petitioner prays that the matter may

be remitted back to the appellate court for hearing and passing the order after perusing of correct case record.

From the record it appears that the appellate court passed the order without perusal of correct lower court record. So that order can not been sustained in the eye of law. Accordingly, the order of the appellate court is set aside and the matter is remitted back to the appellate court who will give an opportunity to the appellant as well as the State for hearing and will pass appropriate order, thereafter.

In the result, this revision application is disposed of with the aforesaid observations and directions.

avin. **(Shyam Kishore Sharma, J.)**

WEB COPY NOT OFFICIAL